

**CHAPTER 155**

## REGULATION OF ANIMAL FEEDING OPERATIONS

S.F. 432

**AN ACT** regulating animal feeding operations, making penalties applicable, and providing for penalties and effective dates.

*Be It Enacted by the General Assembly of the State of Iowa:*

DIVISION I  
APPLICATION OF MANURE ON  
SNOW COVERED GROUND AND FROZEN  
GROUND

Section 1. Section 459.102, Code 2009, is amended by adding the following new subsections:

NEW SUBSECTION. 28A. "Frozen ground" means soil that is impenetrable due to frozen soil moisture but does not include soil that is only frozen to a depth of two inches or less.

NEW SUBSECTION. 31A. "Liquid manure" means manure that meets all of the following requirements:

- a. It flows perceptibly under pressure.
- b. It is capable of being transported through a mechanical pumping device designated to move a liquid.
- c. Its constituent molecules flow freely among themselves and show the tendency to separate under stress.

NEW SUBSECTION. 44A. "Snow covered ground" means soil covered by one inch or more of snow or soil covered by one-half inch or more of ice.

NEW SUBSECTION. 45A. "Surface water drain tile intake" means an opening to a drain tile which allows surface water to enter the drain tile without filtration through the soil profile.

Sec. 2. Section 459.312, subsection 10, Code 2009, is amended by adding the following new paragraph:

NEW PARAGRAPH. h. A description of land identified for the application of liquid manure due to an emergency if allowed pursuant to section 459.313A. The owner must identify the land in the original manure management plan or in the next updated manure management plan required to be submitted to the department following the application.

Sec. 3. NEW SECTION. 459.313A APPLICATION OF MANURE ON LAND — SNOW COVERED GROUND AND FROZEN GROUND.

A person may apply manure originating from an animal feeding operation on snow covered ground or frozen ground, except to the extent otherwise provided by applicable requirements in this section, this chapter, or the national pollutant discharge elimination system pursuant to the federal Water Pollution Control Act, 33 U.S.C. ch. 26, as amended, and 40 C.F.R. pts. 122 and 412.

1. During the period beginning December 21 and ending April 1, the person may apply liquid manure originating from a manure storage structure, that is part of a confinement feeding operation, on snow covered ground only when there is an emergency. During the period beginning February 1 and ending April 1, the person may apply liquid manure originating from a manure storage structure, that is part of a confinement feeding operation, on frozen ground only when there is an emergency. An emergency occurs only when there is an immediate need to comply with section 459.311, subsection 1, due to unforeseen circumstances affecting the storage of the liquid manure. The unforeseen circumstances must be beyond the control of the owner of the confinement feeding operation, including but not limited to natural disaster,

unusual weather conditions, or equipment or structural failure. A person who is authorized to apply liquid manure on snow covered ground or frozen ground when there is an emergency shall comply with all of the following:

- a. The person must contact the department by telephone prior to the application.
  - b. The person must apply the liquid manure on land identified for such application in a manure management plan submitted by the owner of the confinement feeding operation to the department as provided in section 459.312. The owner of the confinement feeding operation must identify the land in the manure management plan prior to the application. The owner must identify the land in the original manure management plan or in the next updated manure management plan required to be submitted to the department following the application.
  - c. The liquid manure must be applied on a field with a phosphorus index rating of two or less.
  - d. Any surface water drain tile intake that is on land in the owner's manure management plan and located down gradient of the application must be temporarily blocked beginning not later than the time that the liquid manure is first applied and ending not earlier than two weeks after the completion of the application.
2. The authorization to apply liquid manure in subsection 1 does not apply to any of the following:
- a. An immediate need to comply with section 459.311, subsection 1, caused by the improper design or management of the manure storage structure, including but not limited to a failure to properly account for the volume of the manure to be stored.
  - b. Liquid manure originating from a manure storage structure constructed or expanded on or after the effective date of this Act, if the manure storage structure has a capacity to store manure for less than one hundred eighty days.
3. Subsections 1 and 2 do not apply to any of the following:
- a. The application of liquid manure originating from a small animal feeding operation.
  - b. The application of liquid manure and injection into the soil or incorporation within the soil on the same date.

Sec. 4. NEW SECTION. 459.313B APPLICATION OF LIQUID MANURE ON SNOW COVERED GROUND OR FROZEN GROUND — ANNUAL REPORT.

1. On or before February 15 of each year, the director of the department, or the department's designee, shall appear before and present a report to the standing committees of the senate and house of representatives having jurisdiction over agriculture and environmental protection. The report shall include all instances in which persons have applied liquid manure originating from a manure storage structure, that is part of a confinement feeding operation, on snow covered ground or frozen ground because of an emergency as provided in section 459.313A. The report shall include an assessment of the application's impact on water quality, including the success of actions taken to prevent or remediate such impact.
2. This section is repealed on July 1, 2014.

DIVISION II  
DRY BEDDED CONFINEMENT FEEDING OPERATIONS  
SUBCHAPTER I  
GENERAL PROVISIONS

Sec. 5. NEW SECTION. 459B.101 TITLE.

This chapter shall be known and may be cited as the "Animal Agriculture Compliance Act for Dry Bedded Confinement Feeding Operations".

Sec. 6. NEW SECTION. 459B.102 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Alluvial aquifer area" means an area underlaid by sand or gravel aquifers situated beneath floodplains along stream valleys and includes alluvial deposits associated with stream terraces and benches, contiguous wind-blown sand deposits, and glacial outwash deposits.

2. "Animal" means cattle or swine.
3. "Animal unit" means the same as defined in section 459.102.
4. "Animal unit capacity" means the maximum number of animal units which the owner or operator confines in a dry bedded confinement feeding operation at any one time.
5. "Bedding" means crop, vegetation, or forage residue or similar materials placed in a dry bedded confinement building for the care of animals.
6. "Commercial enterprise" means the same as defined in section 459.102.
7. "Confinement feeding operation" means the same as defined in section 459.102.
8. "Department" means the department of natural resources.
9. "Designated area" means the same as defined in section 459A.102.
10. "Designated wetland" means the same as defined in section 459.102.
11. "Dry bedded confinement feeding operation" means a confinement feeding operation in which animals are confined to areas which are totally roofed and in which all manure is stored as dry bedded manure.
12. "Dry bedded confinement feeding operation structure" means a dry bedded confinement feeding operation building or a dry bedded manure storage structure.
13. "Dry bedded manure" means manure from animals that meets all of the following requirements:
  - a. The manure does not flow perceptibly under pressure.
  - b. The manure is not capable of being transported through a mechanical pumping device designed to move a liquid.
  - c. The manure contains bedding.
14. "Dry bedded manure confinement feeding operation building" or "building" means a building used in conjunction with a confinement feeding operation to house animals and in which any manure from the animals is stored as dry bedded manure.
15. "Dry bedded manure storage structure" means a covered or uncovered structure, other than a building, used to store dry bedded manure originating from a confinement feeding operation.
16. "Educational institution" means the same as defined in section 459.102.
17. "Grassed waterway" means the same as defined in section 459A.102.
18. "High-quality water resource" means the same as defined in section 459.102.
19. "Karst terrain" means the same as defined in section 459.102.
20. "Major water source" means the same as defined in section 459.102.
21. "Manure" means the same as defined in section 459.102.
22. "One hundred year floodplain" means the same as defined in section 459.102.
23. "Public use area" means the same as defined in section 459.102.
24. "Stockpile" means to store dry bedded manure outside of a dry bedded manure confinement feeding operation building or a dry bedded manure storage structure.
25. "Water source" means the same as defined in section 459.102.

Sec. 7. NEW SECTION. 459B.103 SPECIAL TERMS.

For purposes of this chapter, all of the following shall apply:

1. Two or more dry bedded confinement feeding operations under common ownership or common management are deemed to be a single dry bedded confinement feeding operation if they are adjacent or utilize a common area or system for dry bedded manure disposal.
2. For purposes of determining whether two or more dry bedded confinement feeding operations are adjacent, all of the following shall apply:
  - a. At least one dry bedded confinement feeding operation structure must be constructed on or after March 21, 1996.
  - b. A dry bedded confinement feeding operation structure which is part of one dry bedded confinement feeding operation is separated by less than one thousand two hundred fifty feet from a dry bedded confinement feeding operation structure which is part of the other dry bedded confinement feeding operation.
3. a. For purposes of determining whether two or more dry bedded confinement feeding

operations are under common ownership, a person must hold an interest in each of the dry bedded confinement feeding operations as any of the following:

- (1) A sole proprietor.
- (2) A joint tenant or tenant in common.
- (3) A holder of a majority equity interest in a business association as defined in section 202B.102, including but not limited to as a shareholder, partner, member, or beneficiary.
  - b. An interest in the dry bedded confinement feeding operation under paragraph "a", subparagraph (1) or (2) which is held directly or indirectly by the person's spouse or dependent child shall be attributed to the person.
4. For purposes of determining whether two or more dry bedded confinement feeding operations are under common management, a person must have significant control of the management of the day-to-day operations of each of the dry bedded confinement feeding operations. Common management does not include control over a contract livestock facility by a contractor, as defined in section 202.1.
5. In calculating the animal unit capacity of a dry bedded confinement feeding operation, the animal unit capacity shall include the animal unit capacity of all dry bedded confinement feeding operation buildings that are used to house animals in the dry bedded confinement feeding operation.

Sec. 8. NEW SECTION. 459B.104 GENERAL AUTHORITY — COMMISSION AND DEPARTMENT — PURPOSE — COMPLIANCE.

1. The environmental protection commission shall establish by rule adopted pursuant to chapter 17A, requirements relating to the construction, including expansion, or operation of dry bedded confinement feeding operations, including related dry bedded manure confinement feeding operation buildings and stockpiles.

2. Any provision referring generally to compliance with the requirements of this chapter as applied to dry bedded confinement feeding operations also includes compliance with requirements in rules adopted by the environmental protection commission pursuant to this section, orders issued by the department as authorized under this chapter, and the terms and conditions applicable to manure management plans required under this chapter.

3. The purpose of this chapter is to provide requirements relating to the construction, including the expansion, and operation of dry bedded confinement feeding operations, and the control of dry bedded manure which shall be construed to supplement applicable provisions of chapter 459. If there is a conflict between the provisions of this chapter and chapter 459, the provisions of this chapter shall prevail.

## SUBCHAPTER II DRY BEDDED MANURE STRUCTURES — CONSTRUCTION REQUIREMENTS

Sec. 9. NEW SECTION. 459B.201 CONSTRUCTION DESIGN STANDARDS.

A person constructing a dry bedded confinement feeding operation structure on karst terrain or in an alluvial aquifer area shall comply with all of the following:

1. The person must construct the dry bedded confinement feeding operation structure at a location where there is a vertical separation distance of at least five feet between the bottom of the floor of the dry bedded confinement feeding operation structure and the underlying limestone, dolomite, or other soluble rock in karst terrain or the underlying sand and gravel aquifer in an alluvial aquifer area.
2. The person must construct the dry bedded confinement feeding operation structure with a floor consisting of reinforced concrete at least five inches thick.

Sec. 10. NEW SECTION. 459B.202 DISTANCE REQUIREMENTS.

1. Except as provided in subsection 3, the following shall apply:
  - a. A dry bedded confinement feeding operation structure shall not be constructed closer

than five hundred feet away from the surface intake of an agricultural drainage well. A dry bedded confinement feeding operation structure shall not be constructed closer than one thousand feet from a wellhead, cistern of an agricultural drainage well, or known sinkhole.

b. A dry bedded confinement feeding operation structure shall not be constructed if the dry bedded confinement feeding operation structure as constructed is closer than any of the following:

- (1) Two hundred feet away from a water source other than a major water source.
- (2) One thousand feet away from a major water source.
- (3) Two thousand five hundred feet away from a designated wetland.

c. (1) A water source, other than a major water source, shall not be constructed, expanded, or diverted, if the water source as constructed, expanded, or diverted is closer than two hundred feet away from a dry bedded confinement feeding operation structure.

(2) A major water source shall not be constructed, expanded, or diverted, if the major water source as constructed, expanded, or diverted is closer than one thousand feet from a dry bedded confinement feeding operation structure.

(3) A designated wetland shall not be established, if the designated wetland is closer than two thousand five hundred feet away from a dry bedded confinement feeding operation structure.

2. A dry bedded confinement feeding operation structure shall not be constructed on land that is part of a one hundred year floodplain.

3. A separation distance required in subsection 1 shall not apply to any of the following:

- a. A location or object and a farm pond or privately owned lake, as defined in section 462A.2.
- b. A dry bedded confinement feeding operation structure constructed with a secondary containment barrier. The department shall adopt rules providing for the construction and use of a secondary containment barrier.

### SUBCHAPTER III DRY BEDDED MANURE CONTROL

#### Sec. 11. NEW SECTION. 459B.301 STOCKPILING — AIR QUALITY.

A person may stockpile dry bedded manure, subject to this section.

1. Except as provided in subsection 2, a person shall not stockpile dry bedded manure within one thousand two hundred fifty feet from a residence not owned by the titleholder of the land, a commercial enterprise, a bona fide religious institution, an educational institution, or a public use area.

2. A person may stockpile dry bedded manure within a separation distance required between the stockpiled dry bedded manure and an object or location for which separation is required under subsection 1, if any of the following apply:

- a. The titleholder of the land benefiting from the separation distance requirement executes a written waiver with the titleholder of the land where the dry bedded manure is stockpiled.
- b. The stockpiled dry bedded manure originates from a small animal feeding operation.

#### Sec. 12. NEW SECTION. 459B.305 DRY BEDDED MANURE CONTROL — WATER QUALITY.

A dry bedded confinement feeding operation shall retain all dry bedded manure produced by the operation between periods of dry bedded manure application. For purposes of this section, dry bedded manure may be retained by stockpiling as provided in this chapter. A dry bedded confinement feeding operation shall not discharge dry bedded manure directly into water of the state or into a tile line that discharges directly into water of the state.

#### Sec. 13. NEW SECTION. 459B.306 STOCKPILING — NPDES REQUIREMENTS — WATER QUALITY.

A person stockpiling dry bedded manure shall comply with applicable requirements of the national pollutant discharge elimination system pursuant to the federal Water Pollution Control Act, 33 U.S.C. ch. 26, as amended, and 40 C.F.R. pts. 122 and 412.

Sec. 14. NEW SECTION. 459B.307 STOCKPILING — STATE REQUIREMENTS — WATER QUALITY.

A person may stockpile dry bedded manure, subject to all of the following:

1. a. The person shall not stockpile the dry bedded manure within the following distances to a designated area unless the dry manure is maintained in a manner that will not allow precipitation-induced runoff to drain from the dry bedded manure to the designated area:

(1) Four hundred feet from a designated area other than a high-quality water resource.

(2) Eight hundred feet from a high-quality water resource.

b. The person shall not stockpile dry bedded manure within two hundred feet from a terrace tile inlet or surface tile inlet unless the dry bedded manure is maintained in a manner that will not allow precipitation-induced runoff to drain from the dry bedded manure to the terrace tile inlet or surface tile inlet.

c. The person shall not stockpile dry bedded manure in a grassed waterway, where water pools on the soil surface, or in any location where surface water will enter the stockpiled dry bedded manure.

d. The person shall not stockpile dry bedded manure on land having a slope of more than three percent unless methods, structures, or practices are implemented to contain the stockpiled dry bedded manure, including but not limited to using hay bales, silt fences, temporary earthen berms, or other effective measures, and to prevent or diminish precipitation-induced runoff from the stockpiled dry bedded manure.

e. The person shall not stockpile dry bedded manure on karst terrain or in an alluvial aquifer area unless the person complies with all of the following:

(1) The person must stockpile the dry bedded manure at a location where there is a vertical separation distance of at least five feet between the bottom of the stockpiled dry manure and the underlying limestone, dolomite, or other soluble rock in karst terrain or the underlying sand and gravel aquifer in an alluvial aquifer area.

(2) The dry bedded manure must be stockpiled on reinforced concrete at least five inches thick.

2. The person shall remove the stockpiled dry bedded manure and apply it in accordance with the provisions of chapter 459, including but not limited to section 459.311, within six months after the dry bedded manure is stockpiled.

Sec. 15. NEW SECTION. 459B.308 MANURE MANAGEMENT PLAN FOR A DRY BEDDED CONFINEMENT OPERATION.

For purposes of a manure management plan for a dry bedded confinement operation, if the application of dry bedded manure is on land other than land owned or rented for crop production by the owner of the dry bedded confinement feeding operation, the plan shall include a copy of each written agreement executed by the owner of the dry bedded confinement feeding operation and the landowner or the person renting the land for crop production where the dry bedded manure may be applied.

SUBCHAPTER IV  
ENFORCEMENT

Sec. 16. NEW SECTION. 459B.401 GENERAL.

The department and the attorney general shall enforce the provisions of this chapter in the same manner as provided in chapter 459, subchapter VI.

Sec. 17. NEW SECTION. 459B.402 VIOLATIONS — CIVIL PENALTY.

A person who violates section 459B.301, shall be subject to the same penalty as provided in section 459.602 and a person who violates any other provision of this chapter shall be subject to the same penalty as provided in section 459.603. Any civil penalty collected shall be deposited in the animal agriculture compliance fund created in section 459.401.

Sec. 18. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION III  
CONFORMING CHANGES

Sec. 19. Section 455A.4, subsection 1, paragraph b, Code 2009, is amended to read as follows:

b. Provide overall supervision, direction, and coordination of functions to be administered by the administrators under chapters 321G, 321I, 455B, 455C, 456, 456A, 456B, 457A, 458A, 459, 459A, 459B, 461A, 462A, 462B, 464A, 465C, 473, 481A, 481B, 483A, 484A, and 484B.

Sec. 20. Section 455B.103, subsection 4, unnumbered paragraph 1, Code 2009, is amended to read as follows:

Conduct investigations of complaints received directly or referred by the commission created in section 455A.6 or other investigations deemed necessary. While conducting an investigation, the director may enter at any reasonable time in and upon any private or public property to investigate any actual or possible violation of this chapter, chapter 459, chapter 459A, or the rules or standards adopted under this chapter, chapter 459, ~~or chapter 459A, or chapter 459B~~. However, the owner or person in charge shall be notified.

Sec. 21. Section 455B.103A, subsection 1, unnumbered paragraph 1, Code 2009, is amended to read as follows:

If a permit is required pursuant to this chapter, ~~or chapter 459, or chapter 459A, or 459B~~ for storm water discharge or an air contaminant source and a facility to be permitted is representative of a class of facilities which could be described and conditioned by a single permit, the director may issue, modify, deny, or revoke a general permit for all of the following conditions:

Sec. 22. Section 455B.105, subsections 3, 6, and 8, Code 2009, are amended to read as follows:

3. Adopt, modify, or repeal rules necessary to implement this chapter, chapter 459, and chapter 459A, and chapter 459B, and the rules deemed necessary for the effective administration of the department. When the commission proposes or adopts rules to implement a specific federal environmental program and the rules impose requirements more restrictive than the federal program being implemented requires, the commission shall identify in its notice of intended action or adopted rule preamble each rule that is more restrictive than the federal program requires and shall state the reasons for proposing or adopting the more restrictive requirement. In addition, the commission shall include with its reasoning a financial impact statement detailing the general impact upon the affected parties. It is the intent of the general assembly that the commission exercise strict oversight of the operations of the department. The rules shall include departmental policy relating to the disclosure of information on a violation or alleged violation of the rules, standards, permits or orders issued by the department and keeping of confidential information obtained by the department in the administration and enforcement of this chapter, chapter 459, and chapter 459A, and chapter 459B. Rules adopted by the executive committee before January 1, 1981, shall remain effective until modified or rescinded by action of the commission.

6. Approve all contracts and agreements under this chapter, chapter 459, and chapter 459A, and chapter 459B between the department and other public or private persons or agencies.

8. Hold public hearings, except when the evidence to be received is confidential pursuant to this chapter, chapter 22, chapter 459, ~~or chapter 459A, or chapter 459B~~, necessary to carry out its powers and duties. The commission may issue subpoenas requiring the attendance of witnesses and the production of evidence pertinent to the hearings. A subpoena shall be issued and enforced in the same manner as provided in civil actions.

Sec. 23. Section 455B.105, subsection 11, paragraph a, unnumbered paragraph 1, Code 2009, is amended to read as follows:

Adopt, by rule, procedures and forms necessary to implement the provisions of this chapter,

~~chapter and chapters 459, and chapter 459A, and 459B~~ relating to permits, conditional permits, and general permits. The commission may also adopt, by rule, a schedule of fees for permit and conditional permit applications and a schedule of fees which may be periodically assessed for administration of permits and conditional permits. In determining the fee schedules, the commission shall consider:

Sec. 24. Section 455B.109, subsection 5, paragraph b, Code 2009, is amended by adding the following new subparagraph:

NEWSUBPARAGRAPH. (4) Civil penalties assessed by the department and interest on the civil penalties, arising out of violations involving dry bedded confinement feeding operations under chapter 459B, shall be deposited in the animal agriculture compliance fund as created in section 459.401.

Sec. 25. Section 455B.111, subsection 1, paragraphs a and b, Code 2009, are amended to read as follows:

a. A person, including the state of Iowa, for violating any provision of this chapter; chapter 459, subchapters I, II, III, IV, and VI; chapter 459A; chapter 459B; or a rule adopted pursuant to this chapter; chapter 459, subchapters I, II, III, IV, and VI; ~~or chapter 459A; or chapter 459B.~~

b. The director, the commission, or any official or employee of the department where there is an alleged failure to perform any act or duty under this chapter; chapter 459, subchapters I, II, III, IV, and VI; chapter 459A; chapter 459B; or a rule adopted pursuant to this chapter; chapter 459, subchapters I, II, III, IV, and VI; ~~or chapter 459A; or chapter 459B,~~ which is not a discretionary act or duty.

Sec. 26. Section 455B.111, subsection 5, Code 2009, is amended to read as follows:

5. This section does not restrict any right under statutory or common law of a person or class of person to seek enforcement of provisions of this chapter; chapter 459, subchapters I, II, III, IV, and VI; chapter 459A; chapter 459B; or a rule adopted pursuant to this chapter; chapter 459, subchapters I, II, III, IV, and VI; or chapter 459A; chapter 459B; or seek other relief permitted under the law.

Sec. 27. Section 455B.112, Code 2009, is amended to read as follows:

455B.112 ACTIONS BY ATTORNEY GENERAL.

In addition to the duty to commence legal proceedings at the request of the director or commission under this chapter; chapter 459, subchapters I, II, III, IV, and VI; ~~or chapter 459A; or chapter 459B,~~ the attorney general may institute civil or criminal proceedings, including an action for injunction, to enforce the provisions of this chapter; chapter 459, subchapters I, II, III, IV, and VI; ~~or chapter 459A; or chapter 459B,~~ including orders or permits issued or rules adopted under this chapter; chapter 459, subchapters I, II, III, IV, and VI; ~~or chapter 459A; or chapter 459B.~~

Sec. 28. Section 455B.174, subsection 1, Code 2009, is amended to read as follows:

1. Conduct investigations of alleged water pollution or of alleged violations of this part of this division, ~~or chapter 459, subchapter III, chapter 459A, chapter 459B,~~ or any rule adopted or any permit issued pursuant thereto upon written request of any state agency, political subdivision, local board of health, twenty-five residents of the state, as directed by the department, or as may be necessary to accomplish the purposes of this part of this division, ~~or chapter 459, subchapter III, chapter 459A, or chapter 459B.~~

Sec. 29. Section 455B.175, unnumbered paragraph 1, Code 2009, is amended to read as follows:

If there is substantial evidence that any person has violated or is violating any provision of this part of this division, chapter 459, subchapter III, ~~or chapter 459A, or chapter 459B,~~ or of any rule or standard established or permit issued pursuant thereto; then:

Sec. 30. Section 455B.182, Code 2009, is amended to read as follows:  
455B.182 FAILURE CONSTITUTES CONTEMPT.

Failure to obey any order issued by the department with reference to a violation of this part of this division; chapter 459, subchapter III; ~~or chapter 459A; chapter 459B~~; or any rule promulgated or permit issued pursuant thereto shall constitute prima facie evidence of contempt. In such event the department may certify to the district court of the county in which such alleged disobedience occurred the fact of such failure. The district court after notice, as prescribed by the court, to the parties in interest shall then proceed to hear the matter and if it finds that the order was lawful and reasonable it shall order the party to comply with the order. If the person fails to comply with the court order, that person shall be guilty of contempt and shall be fined not to exceed five hundred dollars for each day that the person fails to comply with the court order. The penalties provided in this section shall be considered as additional to any penalty which may be imposed under the law relative to nuisances or any other statute relating to the pollution of any waters of the state or related to public water supply systems and a conviction under this section shall not be a bar to prosecution under any other penal statute.

Sec. 31. Section 455B.185, Code 2009, is amended to read as follows:  
455B.185 DATA FROM DEPARTMENTS.

The commission and the director may request and receive from any department, division, board, bureau, commission, public body, or agency of the state, or of any political subdivision thereof, or from any organization, incorporated or unincorporated, which has for its object the control or use of any of the water resources of the state, such assistance and data as will enable the commission or the director to properly carry out their activities and effectuate the purposes of this part 1 of division III; chapter 459, subchapter III; ~~or chapter 459A; or chapter 459B~~. The department shall reimburse such agencies for special expense resulting from expenditures not normally a part of the operating expenses of any such agency.

Sec. 32. Section 459.102, subsections 5 and 35, Code 2009, are amended to read as follows:

5. "Animal feeding operation structure" means a confinement building, manure storage structure, dry bedded confinement feeding operation structure as defined in section 459B.102, or egg washwater storage structure.

35. "Manure storage structure" means a formed manure storage structure or an unformed manure storage structure.

a. A manure storage structure includes a dry bedded manure storage structure as defined in section 459B.102.

b. A manure storage structure does not include an egg washwater storage structure.

Sec. 33. Section 459.401, subsection 2, paragraph a, subparagraph (5), Code 2009, is amended to read as follows:

(5) The collection of civil penalties assessed by the department and interest on civil penalties, arising out of violations involving animal feeding operations as provided in sections 459.602, 459.603, ~~and 459A.502, and 459B.402~~.

Sec. 34. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 26, 2009

**CHAPTER 156****INSPECTION AND ASSESSMENT OF HEALTH CARE  
FACILITIES AND ASSISTED LIVING PROGRAMS**

S.F. 433

**AN ACT** relating to the classification and assessment of violations in health care facilities and assisted living programs and providing penalties.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. NEW SECTION. 135C.16A INSPECTORS — CONFLICTS OF INTEREST.

1. Any of the following circumstances disqualifies an inspector from inspecting a particular health care facility under this chapter:

a. The inspector currently works or, within the past two years, has worked as an employee or employment agency staff at the health care facility, or as an officer, consultant, or agent for the health care facility to be inspected.

b. The inspector has any financial interest or any ownership interest in the facility. For purposes of this paragraph, indirect ownership, such as through a broad-based mutual fund, does not constitute financial or ownership interest.

c. The inspector has an immediate family member who has a relationship with the facility as described in paragraph “a” or “b”.

d. The inspector has an immediate family member who currently resides in the facility.

2. For purposes of this section, “immediate family member” means the same as set forth in 42 C.F.R. § 488.301, and includes a husband or wife; natural or adoptive parent, child, or sibling; stepparent, stepchild, or stepsibling; father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law; or grandparent or grandchild.

Sec. 2. NEW SECTION. 135C.35 TRAINING OF INSPECTORS.

1. Subject to the availability of funding, all nursing facility inspectors shall receive twelve hours of annual continuing education in gerontology, wound care, dementia, falls, or a combination of these subjects.

2. An inspector shall not be personally liable for financing the training required under subsection 1.

3. The department shall consult with the collective bargaining representative of the inspector in regard to the training required under this section.

Sec. 3. Section 135C.36, subsection 2, Code 2009, is amended to read as follows:

2. A Class II violation is one which has a direct or immediate relationship to the health, safety or security of residents of a health care facility, but which presents no imminent danger nor substantial probability of death or physical harm to them. A physical condition or one or more practices within a facility, including either physical abuse of any resident or failure to treat any resident with consideration, respect and full recognition of the resident’s dignity and individuality, in violation of a specific rule adopted by the department, may constitute a Class II violation. A violation of section 135C.14, subsection 8, or section 135C.31 and rules adopted under those sections shall be at least a Class II violation and may be a Class I violation. A Class II violation shall be corrected within a stated period of time determined by the department and specified in the citation issued under section 135C.40. The stated period of time specified in the citation may subsequently be modified by the department for good cause shown. A licensee is subject to a penalty of not less than one hundred nor more than five hundred dollars for each Class II violation for which the licensee’s facility is cited, however the director may, upon written request of the facility, waive the penalty if the violation is corrected within the time specified in the citation. The department shall adopt rules in accordance with chapter 17A establishing criteria for the granting or denial of a waiver request.